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President Biden Extends Pause on Student Loan Payments to 2022

"Student loan payments have been paused since Congress passed the CARES Act in March of last year but were due to resume in September."

Why this is important: At the start of the pandemic in March 2020, student loan payments on certain federally backed student loans were paused: borrowers were not required to make payments and interest did not accrue on qualifying loans. Initially set to expire in September 2020, the moratorium on payments has been extended several times. On Friday, another extension was made, and the payment pause has been extended to January 31, 2022. "The Education Department described it as a 'final extension of the pause' in the official announcement Friday afternoon." The language used by the government is telling, and both borrowers and servicers are now on notice that repayments will begin with no additional extensions. **Servicers need to plan for restarting account servicing for more than 40 million federal student loan borrowers at the same time and for a potential deluge of assistance requests by borrowers.** --- [Angela L. Beblo](#)

CFPB Confirms Reg F Will Take Effect on November 30, 2021

"The CFPB determined that an extension of the effective date was unnecessary since most public comments did not support it; most industry commenters stated that they would be prepared to comply with the rules by November 30, 2021."

Why this is important: The CFPB's regulation interpreting the 1977 FDCPA will take effect on November 30, 2021. The regulation, which has been in development for years, addresses the use of technologies like text messages in collections and provides bright line rules on the maximum number of collection attempts that are permissible, among other provisions. Some responded to the proposal of the rule with a request that its implementation be delayed. In the end, the CFPB refused to delay its effective date. **In a little more than three months, the proposed rule, which consumer and industry advocates have been reviewing and dissecting since its proposal, will take effect.** --- [Nicholas P. Mooney II](#)

Senate Democrats Want to Cap Interest Rates on Loans at 36%

"Senate Democrats are making a big push for new legislation that would stop consumers from paying sky-high interest rates on small loans, with APRs of more than 600% in some cases."

Why this is important: Building upon the Military Lending Act enacted in 2006, the Veterans and Consumers Fair Credit Act (S.2833) recently was introduced in the Senate on July 28, 2021. The proposed bill would establish a federal cap on interest rates on consumer loans at 36 percent. Applying to most consumer products, it also would apply to short-term loans, i.e. payday loans and other small-dollar, no collateral loans. Currently, states have taken vastly different approaches to such loans, allowable interest rates, terms, conditions, etc. The proposed bill specifically provides that the protections shall not "preempt any provision of State law that provides greater protection to consumers than is provided" by the bill. Think tanks, policy makers, and others dispute the potential impact passage of such a bill would have on these types of loans and consumers' access to credit, but a broad spectrum of organizations has endorsed the legislation. **Passage of the bill may dramatically impact lending in those states that currently do not regulate these types of loans.** --- [Angela L. Beblo](#)

Cryptocurrency Crackdown Would Raise Tens of Billions for Infrastructure Plan, Analysis Finds

"The bill also aims to end the Employer Retention Tax Credit."

Why this is important: This article talks about a "cryptocurrency crackdown," but its core merely discusses that increased taxing of cryptocurrency transactions and ending the Employer Retention Tax Credit would generate \$30-50 billion over the next 10 years. The article was published on August 2, and the status of the issue has changed since then. The U.S. Senate is set to vote today on a massive infrastructure bill, and that bill includes a provision on taxing cryptocurrency transactions to generate revenue to help offset the cost of the infrastructure spending. The cryptocurrency provisions of the bill are flawed, and two competing additions were introduced to fix the problems. Yesterday, it looked like a compromise was reached on those competing additions. However, the Senate has rejected the compromise, leaving the original version of the provisions intact. The original version essentially imposes a requirement for industry players to report gains from transactions on a 1099 type form even though some players, like cryptocurrency miners, developers, and others, do not have customers and would not have access to the information needed to comply. **The Senate will vote on the infrastructure bill today. If it passes, the bill will head to the House of Representatives for consideration and another possible dispute over the provisions on taxing cryptocurrency transactions.** ---

[Nicholas P. Mooney II](#)

Regulating Student Loans to Promote Racial Equity

"The Consumer Financial Protection Bureau found that Black and Latinx students are more likely than white students to attend schools with higher cohort default rates — a measure of how often particular groups of borrowers default on loans."

Why this is important: The fate of student loan debts has been a hot topic in this administration, with President Biden pausing federal student loan repayments and calls for his administration to eliminate student debt altogether. According to this article, students of color may benefit even more than their white peers from these actions, as they take on higher amounts of student loan debt and experience more difficulty paying it off. At least one report concluded that 48.7 percent of Black borrowers and 34.7 percent of Latinx borrowers who entered college in 2014 defaulted on their loans by 2016. **As the cry for government oversight of student loan debt grows, we should expect to see more regulations heightening consumer protection measures at both the state and federal levels. Even if broad student loan debt cancellation does not materialize, the movement to decrease the default payment gap likely will be an issue in higher education for years to come.** --- [Tai](#)

[Shadrack Kluemper](#)

Feds are Seizing Cryptocurrency from Criminals. Now They have to Figure Out What to Do with It.

"The US government has hired a cryptocurrency company to store all the bitcoin it's seizing."

Why this is important: The U.S. government has seized large amounts of cryptocurrency over the past several years as the proceeds of illegal activity. The U.S. Marshals Service is charged with managing, safekeeping, and liquidating those currencies the same way it does with other assets it seizes, from rare art and collectibles to Bernie Madoff's apartments. A couple weeks ago, the Department of Justice announced that it was partnering with Anchorage Digital to provide custody services. The government now has to decide what to do with those currencies. **The article speculates that the amount of cryptocurrencies held by the government may lead to it becoming "a more significant player in the crypto marketplace in the months and years to come."** --- [Nicholas P. Mooney II](#)

Key Federal Financial Watchdog Marks 10th Anniversary — What has It Accomplished for You?

"Acting director Dave Uejio cited the 'tremendous impact' the bureau has had on the consumer financial marketplace, including \$14.4 billion in consumer relief secured from banks, other lenders, debt collectors and others to date."

Why this is important: In the wake of the 2008 mortgage meltdown and financial crisis, Congress created the CFPB, transferred to it power traditionally held by other federal agencies, and set up a structure that limited Congressional oversight. The CFPB, now 10 years old, has implemented regulations, taken actions against financial services companies, imposed fines, and obtained over \$14 billion in relief for consumers. It also provides a hotline for consumers to make complaints against those companies and maintains a public database of those complaints. Its work hasn't always been constant. Under President Trump, the Bureau's enforcement activity waned. As we reported in prior issues of *All Consuming*, the Biden administration is set to return its activity to pre-Trump levels. **With its implementation of Regulation F interpreting the Fair Debt Collection Practices Act, its work against payday lenders, and calls to address bank overdraft fees and alleged cryptocurrency fraud, the Bureau likely will be as active as ever in the coming years.** --- [Nicholas P. Mooney II](#)

Featured Spilman Attorney Profile



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Neva Lusk is a Member in our Charleston office. Her primary area of practice is general litigation with emphasis on product liability, toxic torts, class actions and commercial litigation.

Neva is a recipient of the 2019 DRI Mary Massaron Award for the Advancement of Women in the Legal Profession. In addition, she is AV® Preeminent™ peer review rated by Martindale-Hubbell; was nominated by her peers for inclusion in The Best Lawyers in America® in the fields of Commercial Litigation and Criminal Defense - White Collar; is recognized as a Leading Commercial Litigation Attorney in Chambers USA; is listed in West Virginia Super Lawyers; is a West Virginia Bar Foundation Fellow; and is a Master of the Bench, emeritus for the American Inns of Court, Judge John A. Field, Jr. Chapter.

Her many memberships include DRI, International Association of Defense Counsel, Federation of Defense and Corporate Counsel, and Defense Trial Counsel of West Virginia. She has also served on the West Virginia Bar Foundation Board of Directors and West Virginia State Bar Board of Governors.

She received her B.A. from Marshall University and her J.D. from West Virginia University. Neva is admitted to the West Virginia State Bar, West Virginia Supreme Court of Appeals, United States District Courts for the Northern and Southern Districts of West Virginia, United States Courts of Appeals for the Third and Fourth Circuits, and United States Supreme Court.

Thank you for reading this issue of *All Consuming*! We hope you found the information timely and useful. If you have topics you would like us to cover or would like to add someone to our distribution list, please [email us](#).

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